

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

I. CLAIM STATUS AND AMENDMENTS

In item 4 of the Office Action Summary, the Office indicated that claims 14-23 are pending in this application. Please clarify the status of claims 24-36, which were added in the Preliminary Amendment of January 8, 2008.

Claims 14, 15 and 18-20 were examined and stand rejected. Claims 14, 15 and 21-23 were indicated as withdrawn.

Claims 14 and 17-21 have been amended. Support for amended claim 14 can be found in the disclosure, for example, at page 2, lines 10-21, and claims 14 and 18 as filed. Other minor editorial revisions have been made to claims 17-21 to better conform to U.S. claim form and to correct grammatical errors. Such revisions are non-substantive and not intended to narrow the scope of protection. Support can be found in the claims as filed.

Applicants are submitting the present Amendment without prejudice to the subsequent prosecution of claims to some or all of the subject matter which might be disclaimed by virtue of this response (although none is believed to be), and explicitly reserve the right to pursue some or all of such subject matter, in Divisional or Continuation Applications.

Applicants thank the Examiner for the careful examination of this case and respectfully request reexamination and reconsideration of the case, as amended. Below Applicants address the rejections in the Office Action and explain why the rejections are not applicable to the pending claims as amended.

II. ANTICIPATION REJECTION

Claims 14 and 15 were rejected under 35 U.S.C. § 102(b) as anticipated by ASHER (CA 1045976) for the reasons on pages 2-3 of the Office Action.

This rejection is respectfully traversed as applied to the amended claims.

It is well established that to anticipate a claim, a cited prior art reference must disclose or suggest each and every element of the claimed invention. See, M.P.E.P., Eighth Ed., Rev. 6 (September 2007) at § 2131.

As now amended, claim 14 recites

A pharmaceutical composition comprising:

a multiple water-in-oil-in-water emulsion, said emulsion comprising in its oily phase one or more extractant compounds that, when said emulsion is brought into contact with a medium, extract from said medium specific toxic molecules capable of binding to said extractant or extractants, and

optionally in combination with a pharmaceutically acceptable vehicle.

Accordingly, independent claim 14 is now directed to pharmaceutical composition comprising multiple water-in-oil-

in-water emulsions. Applicants respectfully submit that ASHER fails to disclose or suggest this feature of multiple emulsions of the amended claims. Indeed, the Examiner acknowledges such at page 3, line 13 of the Office Action.

Thus, it is clear that ASHER fails to disclose or suggest each and every element of the pharmaceutical composition of amended claim 14. For this reason, ASHER cannot anticipate the pharmaceutical composition of claims 14 and 15 (which depends on claim 14). Therefore, the 102(b) anticipation rejection over ASHER is untenable and should be withdrawn.

III. OBVIOUSNESS REJECTION

Claims 18-20 were rejected under 35 U.S.C. § 103(a) as obvious over ASHER (CA 1045976) in view of MORIMOTO for the reasons on page 3 of the Office Action.

This rejection is respectfully traversed.

It is well established that to support a *prima facie* case of obviousness, the Office must provide a rationale showing that all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions to yield predictable results. See, *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, ___, 82

U.S.P.Q.2d 1385, 1395 (2007); and M.P.E.P., Eighth Ed., Rev. 6 (September 2007) at § 2143.02.

Independent claim 18 calls for "[A] multiple water-in-oil-in-water emulsion comprising in its oily phase one or more extractant compounds." Claims 19 and 20 depend on claim 18.

As discussed above, the primary reference of ASHER fails to disclose or suggest the use of multiple emulsions. Again, this deficiency in ASHER was recognized in the Office Action.

Instead, the Office relied on MORIMOTO as allegedly providing the motivation to combine and/or modify the prior art teachings to arrive at the claimed multiple water-in-oil-in-water emulsion of claims 18-20. In this regard, on page 3 of the Office Action, it is indicated that:

"Morimoto et al. teach that multiple emulsions such as w/o/w emulsions are useful for the extraction of drugs from the gastro-intestinal tract (abstract).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of Asher et al. with those of Morimoto et al. One of ordinary skill in the art would have been motivated to do this because Asher teaches a composition for the removal of toxins from the gastro-intestinal tract and Morimoto et al. teach the use of multiple emulsions in the removal of drugs from the GI tract in case of a drug overdose."

Applicants respectfully disagree with the Office's position as to the alleged motivation to combine the teachings

of ASHER and MORIMOTO. Indeed, although MORIMOTO teach multiple emulsions useful for the extraction of drugs from the gastro-intestinal tract, said emulsions are unstable and need improvement. MORIMOTO even recognized the instability of his multiple emulsions. Please page 3192, last paragraph, wherein MORIMOTO indicated that:

"However they are still many difficulties facing clinical trial to improve the stability of w/o/w emulsion and to make it capable of rapid uptake of many weekly acidic drugs "

Consequently, Applicants respectfully submit that, upon reading MORIMOTO, one of ordinary skill in the art would not have been motivated to combine the unstable and unpredictable emulsions disclosed in MORIMOTO with the teachings of ASHER to arrive at the multiple emulsions of claims 18-20, because such a combination of teachings would not yield predictable results. The skilled artisan would not have been motivated to do this because the multiple emulsions in MORIMOTO are not stable enough for such. In view of the teachings in MORIMOTO, it is clear that such a combination of references lacks a reasonable expectation of success of arriving at the claimed multiple emulsions. Applicants respectfully submit the *prima facie* case of obviousness fails given this lack of motivation and lack of predictable results. Thus, the cited combination of ASHER and MORIMOTO cannot render obvious claim 18 (i.e., the independent claim).

In light of the arguments put forward above, Applicants respectfully submit that neither ASHER, nor MORIMOTO, taken alone or in combination, teaches, suggests or makes obvious each and every element of the claim 18. For this reason, independent claim 18 is novel and unobvious over the cited prior art references, either alone or when combined.

Claims 19 and 20 depend, either directly or indirectly, on independent claim 18. Accordingly, dependent claims 19 and 20 are also novel and unobvious over the combined prior art references in view of their dependency on claim 18.

Therefore, Applicants respectfully submit that the above-noted 103(a) obviousness rejection is untenable and should be withdrawn.

IV. CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and early notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional
fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

A handwritten signature in black ink, appearing to read "Jay F. Williams", is written over a horizontal line.

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